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D.F., Appellant)	
)	
and)	Docket No. 14-450
)	Issued: June 11, 2014
ARCHITECT OF THE CAPITAL,)	
Washington, DC, Employer)	
)	

Case Submitted on the Record

Before:
PATRICIA HOWARD FITZGERALD, Acting Chief Judge
COLLEEN DUFFY KIKO, Judge
ALEC J. KOROMILAS, Alternate Judge

On February 25, 2014 appellant filed a timely appeal of a February 4, 2014 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to consider the merits of the case.

The issue is whether appellant has met his burden of proof to establish a traumatic injury in the performance of duty on November 25, 2012, as alleged.

On December 4, 2012 appellant, then a 55-year-old laborer, filed a traumatic injury claim alleging that he injured his right pelvic area on November 25, 2012 when a trash cart he was dumping pushed back on the right side of his stomach near his pelvic area.

¹ 5 U.S.C. § 8101 *et seq.*

Appellant underwent a limited pelvic sonogram on December 10, 2012 which demonstrated a septated cystic fluid collection thought to be fluid filled loops of bowel. He underwent a computerized tomography (CT) scan on December 18, 2012 due to right inguinal pain. This study was negative.

In a letter dated April 30, 2013, OWCP noted that appellant's claim initially appeared to be a minor injury with minimal or no lost time from work. It found now that appellant had not submitted the necessary factual or medical information to establish a traumatic injury on November 25, 2012 as alleged.

Dr. Elwin G. Bustos, a Board-certified internist, found that appellant was totally disabled from December 5, 2012 through February 7, 2013 due to groin pain and a hernia. Dr. Gregory D. Morrow, a Board-certified surgeon, completed a note on April 18, 2013 and diagnosed traumatic right inguinal hernia and laparoscopic surgery on April 17, 2013.

By decision dated May 31, 2013, OWCP denied appellant's claim for traumatic injury finding that he failed to submit the necessary factual and medical evidence needed to establish his claim.

Appellant requested a review of the written record by an OWCP hearing representative on June 18, 2013 and submitted additional evidence. He submitted a statement dated June 7, 2013 asserting that on November 25, 2012 he was dumping a heavy load of bricks when the trash cart pushed back on his right side due to a technical failure of the machine. Appellant stated that he began to develop severe pain and reported the injury to his employers.

Appellant submitted treatment notes from Dr. Bustos beginning December 5, 2012 through May 8, 2013 listing his complaints of sharp pain in the right groin. Dr. Bustos reported on May 8, 2013 that he examined appellant on December 5, 2012 for back pain and right hip/groin pain which started around November 25, 2012. He stated that appellant's right groin pain started at work after lifting a cart loaded with bricks and trying to throw it into the dumpster. Dr. Bustos stated that appellant's right inguinal hernia became evident and that the inguinal area was aggravated by lifting during work. He noted that appellant underwent surgery to relieve pain and avoid further complications such as strangulation or incarceration of the inguinal hernia. Dr. Morrow completed a duty status report on May 16, 2013 and diagnosed right inguinal hernia. He indicated that appellant provided a history of a trash cart ramming into his right side. Dr. Morrow performed laparoscopic right inguinal hernia repair on April 17, 2013.

Dr. Easton L. Manderson, a Board-certified orthopedic surgeon, reported on July 3, 2013 that he first examined appellant on January 25, 2013 due to right groin pain. Appellant stated that he was struck in the right groin in November 2012 at work. Dr. Manderson diagnosed contusion due to the right groin injury.

By decision dated February 4, 2014, OWCP's hearing representative found that appellant had submitted sufficient factual evidence to establish that the employment incident occurred as alleged. He further found, however, that the medical evidence was not sufficiently detailed and

well-reasoned explaining how appellant's diagnosed inguinal hernia was the result of his work incident on November 25, 2012.

LEGAL PRECEDENT

An employee seeking benefits under FECA² has the burden of establishing the essential elements of his or her claim by the weight of the reliable, probative and substantial evidence, including the fact that the individual is an "employee of the United States" within the meaning of FECA and that the claim was timely filed within the applicable time limitation period of FECA, that an injury was sustained in the performance of duty as alleged and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.³ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁴

OWCP defines a traumatic injury as, "[A] condition of the body caused by a specific event or incident, or series of events or incidents, within a single workday or shift. Such condition must be caused by external force, including stress or strain which is identifiable as to time and place of occurrence and member or function of the body affected."⁵ To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a "fact of injury" has been established. First the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged.⁶ Second, the employee must submit sufficient evidence, generally only in the form a medical evidence, to establish that the employment incident caused a personal injury.⁷ A medical report is of limited probative value on a given medical question if it is unsupported by medical rationale.⁸ Medical rationale includes a physician's detailed opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment activity. The opinion of the physician must be based on a complete factual and medical background of the claim, must be one of reasonable medical certainty, and must be supported by medical reasoning explaining the nature of the relationship between the diagnosed condition and specific employment activity or factors identified by the claimant.⁹

² *Id.* at §§ 8101-8193.

³ *Kathryn Haggerty*, 45 ECAB 383, 388 (1994); *Elaine Pendleton*, 41 ECAB 1143 (1989).

⁴ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁵ 20 C.F.R. § 10.5(ee).

⁶ *John J. Carlone*, 41 ECAB 354 (1989).

⁷ *J.Z.*, 58 ECAB 529 (2007).

⁸ *T.F.*, 58 ECAB 128 (2006).

⁹ *A.D.*, 58 ECAB 149 (2006).

ANALYSIS

The Board finds that appellant has not submitted the necessary medical opinion evidence to establish a causal relationship between his November 25, 2012 employment incident and his diagnosed right inguinal hernia.

In support of his claim for an inguinal hernia resulting from his November 25, 2012 employment incident, appellant submitted medical reports from Dr. Bustos. He first examined appellant on December 5, 2012 due to right groin pain which began at work after lifting a cart loaded with bricks and trying to throw it into the dumpster. Dr. Bustos stated that appellant's inguinal area was aggravated by lifting during work. Appellant did not attribute his right-sided pain to lifting, instead noting that it occurred after the trash bin struck him in the right side due to a machinery failure. As Dr. Bustos' history of injury does not correspond to that given by appellant, his report is not sufficient to establish a causal relationship between appellant's traumatic incident and his diagnosed condition.

Dr. Morrow completed a duty status report on May 16, 2013 and diagnosed right inguinal hernia. He indicated that appellant provided a history of a trash cart ramming into his right side. While Dr. Morrow provided an accurate history of injury, he did not provide an opinion that appellant's inguinal hernia was caused by this employment evidence. Dr. Morrow also failed to explain how the impact from the trash cart resulted in the diagnosed condition of inguinal hernia. For these reasons, his reports are not sufficiently detailed to meet appellant's burden of proof.

Dr. Manderson first examined appellant on January 25, 2013 due to right groin pain caused when he was struck in the right groin in November 2012 at work. He diagnosed contusion due to the right groin injury. This report does not support appellant's diagnosed condition of inguinal hernia as a result of the employment incident and is not sufficient to establish appellant's traumatic injury claim.

As appellant has failed to submit the necessary medical opinion evidence explaining how and why his November 2012 employment incident caused or aggravated the diagnosed right inguinal hernia, he has failed to meet his burden of proof in establishing a traumatic injury claim.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not submitted the necessary medical opinion evidence to establish a traumatic injury sustained in the performance of duty on November 25, 2012, as alleged.

ORDER

IT IS HEREBY ORDERED THAT the February 4, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 11, 2014
Washington, DC

Patricia Howard Fitzgerald, Acting Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board